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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 BENJAMIN VANFOSSAN,

10 Plaintiff,

11 v.

12 ARNEL DELOS SANTOS, et al.,

13 Defendants.
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Case No. 1:20-cv-00173-DAD-EPG (PC)

ORDER DENYING, IN PART, MOTION
FOR SUMMARY JUDGMENT/MOTION
TO AMEND COMPLAINT WITHOUT
PREJUDICE

(ECF No. 37)

15 Plaintiff Benjamin VanFossan is a state prisoner proceeding *pro se* and *in forma*
16 *pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff has filed a
17 combined motion for summary judgment/motion to amend complaint to add a claim and a
18 defendant. (ECF No. 37). In a prior order, the Court granted Defendants an extension of time,
19 until August 27, 2021, to respond to this filing. After reviewing Plaintiff's filing, the Court
20 concludes that it can rule on the motion to amend portion of the filing without further briefing
21 and, for the reasons given, the Court denies the motion to amend without prejudice.

22 Plaintiff seeks leave to amend his complaint to add a John/Jane Doe defendant and a
23 deliberate indifference claim against this unnamed defendant. (*Id.* at 16 (stating that "Plaintiff
24 respectfully asks this Honorable Court to grant his supplementary Motion to add a Defendant.
25 John/Jane Doe, and to add the specific claim of Deliberate Indifference to Plaintiff's rights to
26 due Process to have his Rule Violation Re[i]ssued and Reheard").

27 Plaintiff may not amend his complaint in this manner. If Plaintiff wants to amend his
28 complaint, in addition to filing a motion for leave to amend, he needs to file a copy of the

1 proposed amended complaint that is complete in itself. Local Rule 220 (“Unless prior approval
2 to the contrary is obtained from the Court, every pleading to which an amendment or
3 supplement is permitted as a matter of right or has been allowed by court order shall be retyped
4 and filed so that it is complete in itself without reference to the prior or superseded pleading.
5 No pleading shall be deemed amended or supplemented until this Rule has been complied
6 with.”).

7 Therefore, Plaintiff’s motion to amend will be denied, without prejudice to Plaintiff
8 refiling the motion with a signed copy of the proposed amended complaint, which is complete
9 in itself, attached.

10 The Court notes that if Plaintiff’s motion for leave to amend is granted, Plaintiff’s
11 amended complaint will need to be screened, any new defendant will need to be identified and
12 served, and the new defendant will be allowed to take discovery. Thus, there may be a
13 significant delay in this case that has been litigated since January 2020.

14 Accordingly, IT IS ORDERED as follows:

- 15 1. Plaintiff’s motion for summary judgment/motion to amend complaint to add a claim
16 and a defendant (ECF No. 37) is denied, in part, to the extent that Plaintiff’s motion
17 to amend portion of the filing is denied without prejudice to Plaintiff refiling the
18 motion with a signed copy of the proposed amended complaint (that is complete in
19 itself) attached.
- 20 2. Plaintiff’s motion for summary judgment portion of the filing (ECF No. 37) remains
21 pending, with Defendants’ opposition due no later than August 27, 2021, as
22 specified in the Court’s prior order (ECF No. 44).

23
24 IT IS SO ORDERED.

25 Dated: July 1, 2021

26 /s/ Eric P. Grogan
27 UNITED STATES MAGISTRATE JUDGE
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